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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,123	03/31/2004	Shun-ichi Miyazaki	042249	3713
38834	7590	10/06/2005	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				HUGHES, JAMES P
		ART UNIT		PAPER NUMBER
		2883		

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EX

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/813,123	MIYAZAKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James P. Hughes	2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 31 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 033104.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishizawa (6,873,751). Aoki teaches an optical path control device comprising an optical waveguide (e.g. 24) having a clad layer (e.g. 20) of P-type (or N-type) formed on a substrate (e.g. 12, 10) and a core layer (18) of N-type (or P-type) stacked on the clad layer, and triangular electrodes (22, 14) formed on both sides of a part of the optical waveguide, wherein a voltage is applied between the electrodes to change the refractive index at the part of the optical waveguide where the electrode is formed. Nishizawa further teaches that a plurality of incidence unit provided at one end (e.g. A) of the substrate and plural emission units (e.g. 28) at the other end (e.g. A'), wherein a voltage is applied between the electrodes to change the refractive index at the part of the optical waveguide where the electrode is formed, so that light emitted from an arbitrary incidence unit and incident on the optical waveguide becomes incident on an arbitrary emission unit. (See e.g. Col. 3, ll. 35 – Col. 4, ll. 60 and Fig. 1)

However Nishizawa does not teach the exact doping profile of the core and cladding layers. It would have been obvious to one of ordinary skill in the art at the time of the invention

to incorporate N or P doping in the cladding/core of the device of Nishizawa because this would allow efficient operation of the electro-optic effect which the device relies on for operation.

Nishizawa also does not explicitly teach the light incident location or an algorithm for optimizing the control of the device. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to employ such methods in the invention of Nishizawa to optimize the efficiency of the device because an optimal, efficient, device is desirable.

### *Conclusion*

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aoki (6,819,818). Aoki teaches an optical path control device comprising an optical waveguide. (Abstract) Fridman et al. (2005/0111775), Glebov et al. (2003/0202732), Channin (3,795,433), Nishizawa (6,879,739), Thapliya et al. (2005/0175281) all teach electro-optic control devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James P. Hughes whose telephone number is 571-272-2474. The examiner can normally be reached on Monday - Friday 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James P. Hughes  
Patent Examiner  
Art Unit 2883



Frank G. Font  
Supervisory Patent Examiner  
Technology Center 2800